

REMARKS

Claims 1, 4, 6-10, and 14-19 are pending in the present application. Applicants have cancelled claims 3, 5, and 11, and amended claims 4 and 18. Claim 4 has been amended to delete a reference to the E4 gene. Claim 18 has been amended to independent form, to improve clarity. Support for these amendments can be found throughout the application as filed, e.g., at page 10, lines 23-27.

Applicants have also amended the specification to insert a paragraph regarding the priority claim of the present application.

No new matter has been added.

In a preliminary amendment filed on September 23, 2004, Applicants deleted pages 24b, 24c, 24d, 25, and 26, as well as Figures 7-9. **Applicants request that the Examiner kindly confirm that these pages and figures have been deleted.**

Objections to the Specification

At page 2 of the Office Action mailed June 7, 2007 (the "Office Action"), the specification was objected to under 35 U.S.C. 132(a) because the amendment filed during examination of the PCT application, PCT/ES03/00140, allegedly introduced new matter into the disclosure. Applicants have amended the specification to delete this paragraph. In addition, as noted above, Applicants had previously deleted pages 24b-d, 25, and 26 of the application as filed, and Figures and request confirmation of the deletion thereof. In light of these amendments, Applicants request withdrawal of the objection to the specification.

Objections to the Claims

Claim 14 was objected to under 37 CFR 1.75 as allegedly being a substantial duplicate of claim 5. Applicants have cancelled claim 5, and request withdrawal of the objection to claim 14 and allowance thereof.

Claims 12 and 14 were objected to as informal because Claims 12 and 14 depend from dependent claims but are separated therefrom by dependent claims that do not depend from the

same dependent claims. The Examiner noted at page 3 of the Office Action that this could be remedied by an Examiner's amendment; Applicants request that the Examiner kindly do so.

Rejections under 35 U.S.C. § 112, First Paragraph

Claims 3 and 11 remained rejected as allegedly lacking written description. Applicants have cancelled claims 3 and 11 without prejudice and submit that this renders moot the rejection thereof.

Claim 4 remained rejected for allegedly lacking enabling support. The Examiner noted at page 5 of the Office Action that the specification was enabling

... for treating "cancer" resulting from human tumor cells by administering an adenovirus that selectively replicates in the human cancer cells, wherein the adenovirus is descendent from a human adenovirus having a VAI gene and a VAI1 gene by mutation of the VAI and VAI1 genes such that the genes are inactivated and the human tumor cells have a constitutively active Ras pathway or are unresponsive to exposure to interferons, and wherein the adenovirus may additionally have mutations in E1 a or E1 b genes that result in further selective replication in tumor cells ...

While Applicants do not concede that the specification lacks enablement for the full scope of claim 4, Applicants have amended claim 4 to recite a virus that has additional mutations in one or both of E1a or E1b, and submit that, as the Examiner has noted, the claim is enabled and request withdrawal of the rejection thereof under 35 U.S.C. § 112, first paragraph.

Rejections under 35 U.S.C. § 112, Second Paragraph

Claim 18 was rejected at page 6 of the Office Action as allegedly indefinite. Applicants have amended claim 18 to independent form and submit that the claim is now internally consistent, clear, and definite, and therefore request withdrawal of the rejection under 35 U.S.C. §112, second paragraph.

Conclusion

Applicants note that the Examiner indicated that claims 1, 5-10, 13, 15-17 and 19 were allowed. In light of the arguments and amendments presented herein, Applicants submit that all of the pending claims are allowable, and request immediate notification thereof. If the Examiner

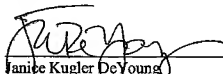
feels that it would further prosecution of the present application, he is invited to telephone the undersigned at (617) 956-5985.

No fees are believed to be due. Please apply any charges or credits to deposit account 06-1050, referencing Attorney Docket No. 16596-049US1.

Respectfully submitted,

Date:

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